

MINUTES

FUELS TAX TASK FORCE OF THE IDAHO COUNCIL ON INDIAN AFFAIRS

JUNE 6, 2006

PONDEROSA ROOM
COEUR D'ALENE TRIBE HOTEL AND CASINO CONFERENCE CENTER
WORLEY, IDAHO

(Subject to approval by the Task Force)

Task Force members present were Senator Michael Jorgenson; Representative George Sayler; Coeur d'Alene Tribal Council Chairman Chief Allan, representing the Coeur d'Alene Tribe; Fort Hall Business Council Chairman Blaine Edmo, representing the Shoshone-Bannock Tribes; Attorney Darren Williams, representing the Nez Perce Tribe; and Attorney Russell Westerberg, representing the Kootenai Tribe. Paige Alan Parker of the Legislative Services Office was present as staff.

Also present were Julie Kane and David Kerrick, representing the Nez Perce Tribe; Bill Roden, Francis SiJohn, Norma J. Peone, Margaret SiJohn, Valerie Fast Horse and Leta Campbell, representing the Coeur d'Alene Tribe; Bill Bacon, Lee Juan Tyler, Delbert Farmer, and Gary Gould, representing the Shoshone-Bannock Tribes; Mark Grannis, representing the Idaho Petroleum Marketers' Association; Mitch Silvers, representing Senator Mike Crapo; Representative Joseph Cannon, representing District 28; and Meghann Coniff, representing the Spokesman-Review.

The meeting was called to order at 11:15 a.m. by Representative Sayler who thanked the Coeur d'Alene Tribe for its hospitality in hosting the meeting. Those present at the meeting introduced themselves.

Representative Sayler stated that the agenda for the meeting was for the individual tribes to provide an update of their negotiations with the Governor's office regarding the fuel tax issues. Representative Sayler requested that the reports not go into specifics, since such details are the subject of ongoing discussions, but provide an overview of the status of the negotiations.

Mr. Westerberg spoke on behalf of the Kootenai Tribe. The Kootenai Tribe does not currently sell motor fuels but wants to reserve its options. Mr. Westerberg stated that the state does not have the authority to regulate commerce on the Kootenai Indian Reservation, but that the Kootenai Tribe wants to eliminate any potential complaints regarding underselling of other motor fuel retailers. Therefore, the Kootenai Tribe is willing to enter into an agreement with the

state which would allow the Kootenai Tribe to impose a motor fuel tax on parity with the state motor fuels tax with the state assuming the responsibility for collecting the tax. An agreed percentage of the tax would be retained by the state for the administrative cost of collecting the tax. On behalf of the Kootenai Tribe, Mr. Westerberg has had two general conversations with Governor Risch which have not gone into specifics.

Mr. Williams spoke on behalf of the Nez Perce Tribe. He has been in contact with Senator Jorgenson who is serving as the conduit to Governor Risch. The Nez Perce Tribe has delivered a letter to Senator Jorgenson outlining its position.

Fort Hall Business Council Chairman Blaine Edmo spoke on behalf of the Shoshone-Bannock Tribes. Chairman Edmo began by thanking the Council on behalf of Nancy Murillo, who is leaving the Fort Hall Business Council next week, for its efforts over the past years. Representative Sayler expressed his appreciation for the service which Ms. Murillo has provided to the Council. Chairman Edmo stated that the Tribes' Business Council has been discussing Governor Risch's proposal at length with its attorneys and revenue director. The Council is near a majority agreement on what the tribe would propose to the Governor and will make a proposal to the Governor in the near future. The Business Council has not been in direct dialogue with the Governor's office but received a letter from the Governor in late April or early May.

Coeur d'Alene Tribal Council Chairman Chief Allan spoke on behalf of the Coeur d'Alene Tribe. The tribe has not had contact with the Governor. Bill Roden, Eric Van Orten and Quanah Spencer have taken the lead for the tribe on generating a proposal. The tribe hopes to have a proposal ready to submit to the Governor next month and is working to keep the lines of communication with the Governor's office open.

Representative Sayler asked for clarification as to who represented the Governor on the fuel tax issue. Senator Jorgenson replied that the Governor has requested that the tribes communicate with him on proposals which should be in the format of the Montana fuel tax agreement. These proposals will be kept confidential as work-in-progress and will be delivered to the Governor once all have been received. The proposals should address the issues of parity with payment of the tax at the time of delivery, revenue split which should be negotiated with the tribes on an individual basis, payment of the tribe's portion of the collected tax which may be earmarked for the highway districts serving the specific reservation or the specific needs of the tribes, rather than being paid into the state's coffers, and, with regard to the Shoshone-Bannock Tribes, the IFTA issue. Senator Jorgenson is willing to meet with the tribes on an individual basis to talk about these issues further.

In response to a question by Mr. Kerrick, Senator Jorgenson stated that his role is not as a mediator but as a facilitator. Senator Jorgenson will receive the proposals from the tribes; once all have been received, he will deliver the proposals to the Governor and discuss them with the Governor. The Governor will then negotiate with the tribes individually. In response to Representative Sayler's question regarding timing, Senator Jorgenson stated that the tribes' fuel tax proposals should be delivered to him as soon as possible. In response to a question by

Chairman Edmo, Senator Jorgenson stated that the Montana fuel tax agreement should be used as a proposal format, but not necessarily with regard to substantive terms. The parties should not get bogged down in a form over substance debate. The form of the proposal need not follow the Montana form in all particulars.

Fort Hall Business Council member Lee Juan Tyler invited the Task Force members to visit the Fort Hall Reservation to see its operations and needs. Mr. Tyler opined that there seemed to be a rush to reach a fuel tax agreement. Any such agreement needs to be founded on equality and respect. Representative Saylor stated that he visited the Fort Hall Reservation last year as part of a legislator tour which was informative. Representative Saylor said that there was no attempt to rush an agreement, but that if something was not done by the next legislative session, then the opportunity to reach a negotiated agreement may be lost. Senator Jorgenson stated that he also has been to the Fort Hall Reservation. The Governor thought that more could have been done at the last Task Force meeting in April but the Tribal Council elections and the state primary elections prevented more progress. However, the April meeting was an empty meeting and a lot of progress has been made already.

Chairman Edmo commented that the Governor will have a short tenure. He is concerned that any negotiations be done on a proper government-to-government basis with someone with adequate authority. Senator Jorgenson responded that the Governor, as the Lt. Governor, attended the last Task Force meeting in person to demonstrate his willingness to negotiate on a government-to-government basis. Senator Jorgenson's role is that of a conduit of proposals. Senator Jorgenson assured the Task Force members that the actual negotiations will be held directly with the Governor who will make the decisions on behalf of the state.

Chairman Allan moved that the minutes of the April 26, 2006, meeting of the Task Force be approved. Senator Jorgenson seconded the motion. The motion was approved unanimously.

The meeting adjourned at 12:00 p.m.